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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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07/16/2001

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EXAMINER

APPLE, KIRSTEN SACHWITZ

ART UNIT

PAPER NUMBER

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/904,850	<b>Applicant(s)</b> YOSHINAGA ET AL.	
	<b>Examiner</b> Kirsten S. Apple	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 9, 11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 2-4, 9, 11, 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 112***

In view of the applicants amendments the 112 rejections is hereby withdrawn.

***Claim Rejections - 35 USC § 102***

The Examiner has read and reviewed all of the information provided by the Applicant.

The examiner rejects as final claims 2-4, 9, 11, 13-22 under 35 USC 102.

The Applicant attention is re-drawn to the following:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-4, 9, 11 & 13-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller US Patent 5,235,509.

**Re claim 2:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*POS terminal includes a display unit that displays a touch panel formed of plural keys*

*(see Mueller, Figure 7)*

*Touching keys allotted to sets of articles on a touch panel (see Mueller, Figure 7)*

*To display and register the base item from a selected set (see Mueller, Figure 7)*

*To pop-up display an optional touch panel, each optional item corresponding to an individual option item in the selected set, with one item being selected (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

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*Touching a selected one of the optional item keys (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

**Re claim 3:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*When set is ordered (see Mueller, Figure 7)*

*Displaying base item (see Mueller, Figure 7)*

*Pop-up display a touch panel corresponding to an individual optional item (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

*Selecting and registering a number of optional items (see Mueller, Figure 13, item 276-286, described in column 17, line 20-30)*

*Until after number of optional items reaches a predetermined value (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

*Holding pop-up display on display unit (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 4:** Mueller discloses:

*Holding pop-up display until number of optional items reaches a predetermined value (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 9:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*Displaying a touch panel having: (see Mueller, Figure 7)*

*Memory key: first memory storing order information for which payment is complete, second memory key for which a payment is not complete (see Mueller, Figure 1, item 14)*

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*First and second memory calling keys (see Mueller, Figure 1, item 14)*

*Displaying first screen to register an article (see Mueller, Figure 1, item 16)*

*Displaying second screen for payment (see Mueller, Figure 1, item 16)*

**Re claim 11:** Mueller discloses:

*A display unit for displaying a touch panel (see Mueller, Figure 7)*

*A first memory (see Mueller, Figure 1, item 14)*

*A second memory (see Mueller, Figure 1, item 16)*

*A control unit (see Mueller, Figure 1, item 112)*

*Touch panel (see Mueller, Figure 1, item 24)*

**Re claim 13:** Mueller discloses:

*When a plurality of items is selected (see Mueller, Figure 13, item 276-286, described in column 17, line 20-30)*

*Holding pop-up touch panel after reaches the sum (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 16:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, Figure 7)*

*Displaying an order inputting screen including an item key for registering ordered commodities (see Mueller, Figure 1, item 24), a first ten key section for inputting number of commodities, a statement display unit for displaying information about ordered commodities which are registered, and a first function key unit for executing functions*

*Displaying upon account process after completion an account screen including statement display unit, (see Mueller, Figure 8) a second ten key unit for inputting amount, a sum displaying*

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*section, deposit displaying section for display amount deposited money, and a second function key unit for executing each corresponding functions*

*Displaying after completed, another order inputting screen*

**Re claim 17:** Mueller discloses:

*An order receiving terminal comprising: (see Mueller, Figure 7)*

*A display unit (see Mueller, Figure 1, item 14)*

*A control unit (see Mueller, Figure 1, item 12)*

*The remaining details have similar limitation to claim 16 and would be reject on the same basis as claim 16.*

**Re claim 18:** Mueller discloses:

*A recording medium (see Mueller, Figure 1, item 46)*

*The remaining details have similar limitation to claim 16 and would be reject on the same basis as claim 16.*

**Re claim 14-15 & 19-22:**

The following claims listed below in the following format have duplicate content.

Therefore, the New Claim is rejected based on the information provided regarding Previous Claim.

*14=13*

*15= 2+4*

*19=2*

*20 = 2*

*21 = 2*

22 = 2

*Response to Arguments*

Applicant's arguments filed 10/18/2006 have been fully considered but they are not persuasive.

In particular, and respect to Claim 1 the Applicant argued 1<sup>st</sup>: "Muller does not disclose... initial displaying a touch panel formed of a plurality of keys for every item"

The Examiner refutes the argument made by the Applicant and draws the attention to Muller figure 7 which clearly shows a screen shot of the "initial displaying touch screen." While the examiner argues that this is initially shown to the customer, however if the applicant continues to argue if it is initially show to the customer is irrelevant. As long as the process and apparatus are found in prior art they can include multiple additional steps before and after the sub-method. If the prior art included "washing their hair", "showing a red card" or any other step they can create before displaying the touch screen is immaterial so long as the process and apparatus as specified in the applicants application is the same.

Applicants argued 2<sup>nd</sup>, "Mueller does not disclose a set of articles being a combination of a base item and at least one optional item"

The Examiner refutes the argument made by the Applicant and draws the attention to back to Muller, figure 13, item 276-278. Set of articles being a combination of a base item is very clearly shown on the special order option where a set of special articles can be ordered.

Applicants argued 3<sup>rd</sup>, "Muller fails to disclose an order inputting screen having a first ten key unit and an account screen laid out with a second ten key unit"

The Examiner refutes the argument made by the Applicant and draws the attention to Muller Figure 7 and Figure 8 both inputting screen and account screens are clearly depicted respectively. The fact that they are show in the prior art on two different figures is irrelevant, the

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examiner argues that they are understood to be able to be displayed on the same screen (as shown in Figure 8) however even if the applicant argues that they are only on different screens it is simply a matter of design choice as to where the buttons appear.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

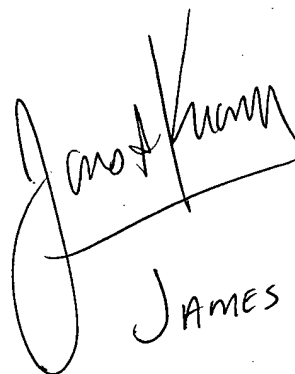
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

 1/8/07  
JAMES KRAMER